REMARKS

In the Final Office Action, the Examiner allowed claims 1, 4, 6, and 27, and rejected claims 31-34. Applicants canceled claims 2, 3, 5, 7-26, and 28-30 in previous communications. Applicants thank the Examiner for the recognition of allowable subject matter in the present claims.

The Examiner rejected claims 31-34 under 35 U.S.C. § 103 as unpatentable over Kingon et al. (U.S. Patent No. 6,541,137) in view of official notice and/or engineering design choice. Although Applicants do not agree with this rejection (for at least the reasons briefly provided below), Applicants recognize that the Examiner has indicated that all other pending claims are allowable. Accordingly, Applicants have chosen to place the application in condition for allowance by canceling rejected claims 31-34. Applicants have done so without prejudice, as such subject matter may be included in a subsequent continuing application that addresses the Examiner's improper rejection.

Upon entry of the amendments, claims 1, 4, 6, and 27 will remain pending in the present patent application and should be in condition for allowance. Applicants respectfully request withdrawal of the outstanding rejection and allowance of all pending claims.

Brief Comments on the Improper Rejection of Claims 31-34

While Applicants have canceled claims 31-34 to expedite issuance of the instant case, Applicants respectfully note that the present rejection of these claims is facially improper. First, Applicants respectfully note that the Kingon et al. reference is directed to *semiconductor manufacturing*. *See, e.g.*, Abstract. In sharp contrast, the present application is generally directed to the formation of stain-resistant and corrosion-resistant surfaces, such as for food and beverage, marine, and chemical applications, among others. *See, e.g.*, Application, page 1, lines 7-9. It would be immediately apparent to any person skilled in the art that the Kingon et al. reference is not within Applicants' field of

endeavor, is not remotely related to the problem addressed by Applicants in the present application and, consequently, cannot logically be considered analogous art. *See In re Wood*, 599 F.2d 1032, 1036, 202 U.S.P.Q. 171, 174 (C.C.P.A. 1979); *see also, e.g., Union Carbide Corp. v. American Can Co.*, 724 F.2d 1567, 220 U.S.P.Q. 584 (Fed. Cir. 1984); *Bott v. Fourstar Corp.*, 218 U.S.P.Q. 358 (E.D. Mich. 1983). For at least this reason, the rejection of claims 31-34 is clearly erroneous.

Second, Applicants respectfully submit that the Examiner's reliance on official notice and design choice in supporting the rejection is improvident, at best. In the Office Action, the Examiner essentially argues that eliminating the barrier and dielectric layers in the Kingon et al. apparatus would be obvious to one skilled in the art. *See* Office Action mailed June 8, 2006, pages 2-3. What the Examiner has apparently failed to recognize, however, is that the dielectric layer is *absolutely essential* to the operation of the Kingon et al. device (which is a capacitor), and that removal of the dielectric and barrier layers from the Kingon et al. device would render it completely *inoperable*. Applicants respectfully submit that it clearly would not, in fact, be obvious to modify a device to render it inoperable and unsatisfactory for its intended use, and the Examiner has provided no rationale to the contrary. For this additional reason, the Examiner's rejection of claims 31-34 is simply untenable.

Conclusion

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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